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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/856,082	08/24/2001	Heinz Mueller	H3574 PCT/US	3696
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EXAMINER

TUCKER, PHILIP C

ART UNIT	PAPER NUMBER
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1712

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DATE MAILED: 02/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

856082

Applicant(s)

MUELLER

Examiner

P. TOCKER

Group Art Unit

1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 11 - 23 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 11 - 13, 15 - 20 is/are rejected.
- ☒ Claim(s) 14 and 21 - 23 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☒ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).
- *Certified copies not received: _____.

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 8 ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11-13, 15, 16, 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Carney et al (4409108).

Carney teaches a drilling fluid to which is added lubricants including partial esters of glyceride, such as glycerol mono-oleate or glycerol dioleate (see Tables), within the scope of the amounts in the present invention (see also claim 9).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

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to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carney (4409108).


Carney teaches a drilling fluid to which is added lubricants including partial esters of glyceride, such as glycerol mono-oleate or glycerol dioleate (see Tables), within the scope of the amounts in the present invention (see also claim 9). Carney differs from the present invention in that a specific level of greater than 10% by weight of oil used in the drilling fluid is not exemplified. However, Carney teaches that hydrocarbons and oil may be included in the drilling fluid, and that the level of water may be as low as 10% (see column 2, lines 63-67). It would be obvious to one of ordinary skill in the art to vary the amount of oil or hydrocarbon in the composition of Carney, in order to achieve optimum drilling performance, given the teaching of Carney that the fluid may comprise the oil or hydrocarbon, and that as little as 10% water may be present.

5. Claims 14 and 21-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tucker whose telephone number is (703) 308-0529. The examiner's normal working hours are 7:30am-4:00pm, Monday-Friday. If necessary SPE Robert Dawson may be contacted at 703-308-2340. For inquiries of a general nature call the receptionist at 703-308-0651. The group FAX no. is 703-872-9310. The **after final** fax no. Is 703-872-9311.

PCT-2725
January 27, 2003


PHILIP C. TUCKER
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